

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
AND NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA CODE OF REGULATIONS**

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

PUBLIC MEETING: On **September 21, 2006**, at 10:00 a.m.
in the Auditorium of the State Resources Building,
1416 Ninth Street, Sacramento, California 95814.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

PUBLIC HEARING: On **September 21, 2006**, following the Public Meeting
in the Auditorium of the State Resources Building,
1416 Ninth Street, Sacramento, California 95814.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

BUSINESS MEETING: On **September 21, 2006**, following the Public Hearing
in the Auditorium of the State Resources Building,
1416 Ninth Street, Sacramento, California 95814.

At the Business Meeting, the Board will conduct its monthly business.

DISABILITY ACCOMMODATION NOTICE: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

JOHN D. MACLEOD, Chairman

NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA CODE OF REGULATIONS
BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **September 21, 2006**.

1. TITLE 8: **LOGGING AND SAWMILL SAFETY ORDERS**
 Chapter 4, Subchapter 13, Article 15
 Section 6368
 Fuel Houses, Chip Bins, and Hoppers--Sawmills

A description of the proposed changes are as follows:

1. TITLE 8: **LOGGING AND SAWMILL SAFETY ORDERS**
Chapter 4, Subchapter 13, Article 15
Section 6368
Fuel Houses, Chip Bins, and Hoppers--Sawmills

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

The Occupational Safety and Health Standards Board (Board) received a memorandum from the Division of Occupational Safety and Health (Division) with attached Request for New or Change in Existing Safety Order (Form 9). The Form 9 recommended that the Logging and Sawmill Safety Orders, Section 6368, Fuel Houses, Chip Bins, and Hoppers, be amended to address the hazard of employee engulfment in loose piled materials equivalent to what is required by Section 3482 of the General Industry Safety Orders. Section 3482, Bulk Storage of Loose Materials, currently contains more comprehensive requirements for employees working at locations where there is bulk storage of loose materials.

Section 6368 and Section 3482 both address comparable work environments, except Section 6368 is part of Article 15, exclusive to logging and sawmill operations, and Section 3482 applies to general industry. The degree to which each standard addresses the hazard of employee engulfment is quite different. Section 6368 requires fuel houses to have at least two exits; provides provisions for tunnels, chains, mechanical diggers, vibrators or other means of removing materials to prevent employees from becoming trapped by a cave-in; requires provisions for platforms and walkways by employees who work over stored materials; and requires the use of safety belts with a line attended by another employee whenever the employee must leave the safety of the walkway or platform.

Section 3482 includes essentially all the provisions of Section 6368, except Section 6368 requires fuel houses to have at least two exits, use of platforms or walkways can be substituted for alternative mechanic means, and its scope is limited to logging and sawmill operations. In addition, Section 3482 contains provisions that are not included in Section 6368. These provisions include: (1) specifically requiring instruction to employees on the work hazards and engulfment /entrapment precautions; (2) providing specific mechanical means of preventing engulfment or entrapment from a cave-in that includes the use of a hoist capable of providing necessary support and use of a boatswain's chair or Class III body harness with a line suspended from a hoist; (3) requiring that the safety line be taut and be not less than 13/16 inch Manila rope or its equivalent strength and diameter; (4) blocking the inflow and outflow of material unless it is necessary to the employee's work, where a means to control or stop the material is required; and (5) explicitly stating that there be provisions for safe access and egress for any employee required to work on the pile.

Board staff has contacted a representative from the Timber Operators Council (TOC) who represents sawmills in California and the Pacific Northwest. According to the California Region Safety Representative, the TOC represents nearly 100 percent of the affected industry. The TOC representative stated that on behalf of the TOC, he had no objections or concerns over the proposal. He also indicated that not all sawmill workers in California are represented by a collective bargaining unit. Sawmill workers at some mills are represented by the Western Council of Industrial Workers (WCIW). Board

staff contacted a representative of WCIW to discuss the proposal. He indicated that he had no objections or concerns over the proposed amendments.

The proposed amendments are as follows:

Section 6368. Fuel Houses, Chip Bins, and Hoppers.

This section consists of four subsections which address engulfment hazards in sawmills. The provisions require that (1) fuel houses have two exits; (2) fuel houses, chip bins and hoppers have tunnels, chains, mechanical diggers, vibrators or other effective means of removing material so that employees do not need to work in locations where they could be entrapped by a cave-in; (3) employees have platforms and walkways, constructed as prescribed in GISO; and (4) employees not leave the walkways or other protected areas without wearing body belts and lifelines with an attendant.

Amendments are proposed to delete subsection (b) which pertains to the construction of the structure, how it is equipped, and means to remove loose material. The new language would instead require fuel houses, chip bins and hoppers in sawmills to comply with the requirements of Section 3482. Taking into account the differences between Sections 6368 and 3482, the effect of the proposed amendment referencing Section 3482, would be to: (1) require employee training on engulfment hazard prevention; (2) when the construction of structures is impractical, provide the use of a manually powered hoist with an attendant and use of a boatswain's chair or a Class III body harness with a line suspended from the hoist; (3) require the hoist lines to be controlled; and (4) provide a means to block the movement of piled materials or provide communication with a standby person who can control the material flow. The employer will also have to ensure that the diameter of the lines attached to the employee are not less than 13/16 inch Manila rope or equivalent and provide for safe access/egress from piled materials and protect against engulfment. Unlike Section 6368, the proposed amendments would not mandate the use of walkways/platforms, but require their use whenever possible.

Further amendments are proposed to delete subsections (c) and (d) which pertain to the use of platforms, walkways and use of safety belts and attended lifelines as means of protecting employees from engulfment hazards. The issues addressed by subsections (c) and (d) are proposed to be substituted with the more comprehensive requirements of Section 3482 in the proposed new subsection (b). The effect of the proposed amendments would be to expand the options for sawmills and logging facilities to prevent engulfment hazards permitted to general industry in comparable environments, while also providing more specifications on these options.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action. The State of California does not operate permanent sawmill operations.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. Unlike existing Section 6368, complying with the provisions of Section 3482 will provide employers some reasonable and practical flexibility in addressing employee engulfment hazards not currently afforded by Section 6368. For example, in lieu of redesigning storage structures or providing mechanical equipment or walkways, the employer can provide a manually powered hoist to lift the employee up and out of a pile of material that engulfs him/her. When any of the forgoing methods are impractical, the employer can opt to use a body belt with lifeline and attendant as an alternative.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. (See Impact on Businesses.)

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore this standard does not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

This proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard does not in

any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

This proposed standard does not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated. (See Impact on Businesses.)

ASSESSMENT

The adoption of the proposed amendments to this standard will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than September 15, 2006. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on September 21, 2006, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at oshsb@dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposal substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Keith Umemoto, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

JOHN D. MACLEOD, Chairman

TITLE 8

LOGGING AND SAWMILL SAFETY ORDERS

CHAPTER 4, SUBCHAPTER 13, ARTICLE 15

SECTION 6368

FUEL HOUSES, CHIP BINS, AND HOPPERS, ENGULFMENT PROTECTION

NOTICE OF ADOPTION OF
REGULATIONS
INTO TITLE 8, CALIFORNIA CODE OF REGULATIONS
BY THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

After proceedings held in accordance with and pursuant to the authority vested in Sections 142, 142.3 and 142.4, of the Labor Code to implement, interpret, or make specific, the Occupational Safety and Health Standards Board, by a majority vote, adopted additions, revisions, or deletions to the California Code of Regulations as follows:

1. Title 8, Chapter 4, Subchapter 7, General Industry Safety Orders, Group 16, Article 107, Section 5155, Airborne Contaminants.

Heard at the September 15, 2005, Public Hearing; adopted on April 20, 2006; filed with the Secretary of State on June 6, 2006; and became effective on July 6, 2006.

A copy of these standards are available upon request from the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721.

If you have Internet access, visit the Occupational Safety and Health Standards Board by going to: **<http://www.dir.ca.gov/oshsb>** and follow the links to the Standards Board. This information is updated monthly. The Standards Board's e-mail address is: **oshsb@dir.ca.gov**.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Keith Umemoto, Executive Officer